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AR-D-2002

04115

8 August 1952

TO: The Director of Central Intelligence  
FROM: Deputy Director (Administration)  
SUBJECT: Establishment of a Board of Contract Appeals

1. PROBLEM.--Establishment of a Board of Contract Appeals.
2. ASSUMPTIONS.--The number and complexity of Agency contracts will increase and the area for possible disputes with contractors will be broadened.
3. FACTS BEARING ON THE PROBLEM.--Most Government agencies have Boards of Contract Appeals authorized to act for and in the name of the head of the agency. This is a practice of long standing in the military departments.
4. DISCUSSION.--A disputes clause, standard in most agency contracts, provides for a written appeal addressed to the Director but that the decision of the Director or his duly authorized representative for the hearing of such appeals shall be final and conclusive. Federal courts have repeatedly ruled that such an authorized representative may properly be the final administrative authority before recourse to the courts for relief sought, but it must be a specific designation and assignment of responsibility or the contractor will have to obtain action by the head of the agency himself before he can say he has exhausted his administrative remedy. Consequently, it is standard Government practice to assign this responsibility to a Board of Contract Appeals. The membership of the Board is not important technically, but is usually given to people experienced in business transactions.
5. CONCLUSIONS.--A properly constituted Board of Contract Appeals is needed for effective handling of contract disputes.
6. ACTION RECOMMENDED.
  - a. That the Director authorize the establishment of a Board of Contract Appeals.
  - b. That the Deputy Director for Administration be authorized to appoint Agency employees to the Board.

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- c. That the attached regulations and rules of procedure for the Board be approved for publication.

/s/

L. K. WHITE  
Acting Deputy Director  
(Administration)

CONCURRENCE:

General Counsel

Date

ACTION BY APPROVING AUTHORITY:

Date                     

Approved (disapproved), exceptions, if any.

Director of Central Intelligence

C/P&SO (w/basic) ✓

*Mr. Counsel*

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